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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/803,049

03/12/2001

Noboru Yamashita

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05/04/2004

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EXAMINER

PATHAK, SUDHANSHU C

ART UNIT

PAPER NUMBER

2634

DATE MAILED: 05/04/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/803,049

Applicant(s)

YAMASHITA, NOBORU

Examiner

Sudhanshu C. Pathak

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2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on March 12<sup>th</sup>, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on March 12<sup>th</sup>, 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-to-20 are pending in the application.

#### ***Specification***

2. The disclosure is objected to because of the following informalities:

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. It is not clear what is written (described) in the specification. For example, on Page 1, lines 14-22, it is not clear what is meant by "...even though resuming the transmission after intermission of the intermittent transmission...". The specification seems to have been directly translated and is incomprehensible at certain places, throughout the disclosure.

Appropriate correction is required throughout the disclosure.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-12 & 13-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is distinctly not clear as to what function the flag's (first and second flag) are performing in the invention. Further it is not clear what is the difference between the flags. The claims appear to be a literal translation into

English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7 & 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamashita (6,377,614).

Regarding to Claims 1, 7 & 20, Yamashita discloses a receiver for a spread spectrum communications system (Abstract, lines 1-3 & Column 1, lines 5-15, 30-36) comprising an acquiring circuit that periodically acquires in synchronization a plurality of signals received via a plurality of paths different in a route from a transmitter (Fig. 1, element 11 & Column 1, lines 51-67 & Column 2, lines 30-45 & Column 3, lines 15-25 & Column 4, lines 15-35 & Column 8, lines 55-64); a plurality of tracking circuits that track in synchronization a predetermined number of signals among the plurality of signals acquired by the acquiring circuit (Fig. 1, elements 13-15 & Column 1, lines 40-50 & Column 2, lines 22-45 & Column 4, lines 51-67 & Column 6, lines 3-10); a judging circuit that judges whether present propagation

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condition and past propagation condition of the predetermined signals tracked by the plurality of tracking circuits are good or bad (Fig. 1, elements 11-12 & Column 2, lines 31-40 & Column 3, lines 4-25 & Column 5, lines 6-13, 31-48); and a selecting circuit that selects the predetermined number of signals from the plurality of signals acquired by the acquiring circuit, based on the present propagation condition and the past propagation condition of the signal judged by the judging circuit, to allow the plurality of tracking circuits to track the predetermined number of signals selected by the selecting circuit (Fig. 1, element 12 & Column 2, lines 39-45 & Column 3, lines 4-12, 36-57 & Column 4, lines 35-51 & Column 5, lines 56-65).

Regarding to Claims 2 & 3, Yamashita discloses a receiver for a spread spectrum communications system comprising an acquiring circuit that periodically acquires in synchronization a plurality of signals received; a plurality of tracking circuit that tracks in synchronization a number of signals acquired; a judging circuit that judges the propagation condition of the signals tracked; and a selecting circuit that selects a predetermined number of signals as described above. Yamashita further discloses that the receiver, when a signal tracked by the tracking circuit at the previous cycle coincides with the acquired by the present cycle and when the signal tracked by the tracking circuit at the present cycle was acquired by the acquiring circuit a plurality of times at cycles prior to the present cycles, the judging circuit judges that the present propagation condition of the signal tracked by the tracking circuit is good (Fig. 2, 4, 6 & Abstract, lines 1-10 & Column 2, lines

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40-67 & Column 3, lines 25-58 & Column 5, line 32-to-Column 7, line 67 & Claim 2).

Regarding to Claims 4 & 5, Yamashita discloses a receiver for a spread spectrum communications system comprising an acquiring circuit that periodically acquires in synchronization a plurality of signals received; a plurality of tracking circuit that tracks in synchronization a number of signals acquired; a judging circuit that judges the propagation condition of the signals tracked; and a selecting circuit that selects a predetermined number of signals as described above. Yamashita further discloses when the predetermined number of signals tracked by the plurality of tracking circuits at the previous cycle each do not coincide with the plurality of signals acquired by the acquiring circuit at the present cycle, the selecting circuit allows at least one of the tracking circuit to continue to track the best signal of the previous cycle (Column 1, lines 51-59 & Column 3, lines 45-50 & Column 6, lines 3-10 & Column 9, lines 55-67).

Regarding to Claim 6, Yamashita discloses a receiver for a spread spectrum communications system comprising an acquiring circuit that periodically acquires in synchronization a plurality of signals received; a plurality of tracking circuit that tracks in synchronization a number of signals acquired; a judging circuit that judges the propagation condition of the signals tracked; and a selecting circuit that selects a predetermined number of signals as described above. Yamashita further discloses when the past propagation condition of a predetermined number of signals were similar to

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each other at the previous cycle, the selecting circuit allows one of the plurality of tracking circuit to continue tracking at the present cycle one of the predetermined number of signals based on the power value of the predetermined number of signals (Abstract, lines 1-10 & Column 2, lines 11-20 & Column 2, lines 30-45 & Column 3, lines 4-15 & Fig. 2, 4, 6, elements S6, S12, S22 respectively).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhanshu C. Pathak whose telephone number is (703) 305-0341. The examiner can normally be reached (Monday-Friday from 8:30 AM to 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached at (703) 305-4714.

Any response to this action should be mailed to:

- Commissioner of Patents and Trademarks Washington, D.C. 20231

Or faxed to:

- (703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to:

- Crystal Part II, 2121 Crystal Drive, Arlington, VA, Sixth Floor  
(Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to:

Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

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STEPHEN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600